

Authority is given to township trustees by Section 3285, General Code, to levy a tax "to purchase a hearse and build a vault," providing the proposition is first submitted to a vote of the electors of the township and it carries by a majority of all the votes cast at such election; but it is clear that this does not mean that individual vaults may be purchased for sale to the patrons of the cemetery. This section reads, in part, as follows:

"The trustees of a township may levy a tax in such amount, as they determine, to purchase a hearse and build a vault, or for either purpose, for the use of such township to be under the control of the trustees or a person appointed by them. \* \* \* "

The language of the above statute, wherein it authorizes the trustees to "purchase a vault," which, when purchased, shall be "for the use of such township to be under the control of the trustees or a person appointed by them" clearly indicates that the purchase of but one vault is contemplated, and that when it is purchased, it shall be under the control of the trustees. It is manifest that this does not mean the purchase of individual vaults for resale, but rather the construction or building of what is commonly known as a receiving vault for the use of the patrons of the cemetery generally. This conclusion is fortified by the fact that this act was passed in 1878, (75 O. L. 46), when the use of receiving vaults in cemeteries was quite general, and before the use of individual vaults for each grave became customary.

To authorize the use of public funds for the purpose of buying grave vaults or other paraphernalia necessary and proper in making burials would be virtually authorizing public authorities to act as merchant brokers for private individuals and would be a diversion of public funds to private uses, which, in my opinion, would be an unwarranted and unconstitutional grant of power even if such action were authorized by statute, which it is not.

I am therefore of the opinion that the trustees of a township can not legally purchase grave vaults and pay for the same with township funds, for the purpose of selling such vaults to the patrons of the cemetery, thereby reimbursing the township treasury with the proceeds of such sale.

Respectfully,  
EDWARD C. TURNER.  
*Attorney General.*

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1731.

DISAPPROVAL, BONDS OF THE VILLAGE OF SEVEN MILE, BUTLER COUNTY, OHIO—\$8,244.09.

COLUMBUS, OHIO, February 20, 1928.

*Industrial Commission of Ohio, Columbus, Ohio.*